

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 162

Introduced by Landis, 46

Read first time January 8, 1999

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to amend section 44-359, Reissue
- 2 Revised Statutes of Nebraska; to change provisions
- 3 relating to awarding of attorney's fees and expenses; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-359, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-359. In all cases when the beneficiary or other
4 person entitled thereto brings an action upon any type of insurance
5 policy, except workers' compensation insurance, or upon any
6 certificate issued by a fraternal benefit society, against any
7 company, person, or association doing business in this state, ~~the~~
8 ~~court, upon rendering judgment against such company, person, or~~
9 ~~association, shall allow the plaintiff a reasonable sum as an~~
10 ~~attorney's fee in addition to the amount of his or her recovery, to~~
11 ~~be taxed as part of the costs or when the company, person, or~~
12 ~~association brings an action against a beneficiary or other person~~
13 ~~upon any such insurance policy or certificate, the company, person,~~
14 ~~or association shall be liable to the beneficiary or other person~~
15 ~~for the reasonable attorney's fees and expenses of the action. The~~
16 ~~attorney's fees and expenses shall be taxed as part of the costs~~
17 ~~and awarded by the court to the beneficiary or other person whether~~
18 ~~the recovery is by judgment, verdict, or settlement at any time and~~
19 ~~shall be determined as of the date of judgment, verdict, or~~
20 ~~settlement.~~ If such cause is appealed, the appellate court shall
21 likewise allow a reasonable sum as an attorney's fee for the
22 appellate proceedings. If the, except that if the plaintiff fails
23 to obtain judgment for more than may have been offered by such
24 company, person, or association in accordance with section 25-901,
25 then the plaintiff shall not recover makes an offer to confess
26 judgment in a specific amount and the beneficiary or other person
27 fails to obtain a judgment, verdict, or settlement in an amount in
28 excess of the amount contained in the offer to confess judgment,

1 then the beneficiary or other person shall only be entitled to the
2 attorney's fee and expenses provided by this section up to the date
3 of the offer to confess judgment.

4 Sec. 2. Original section 44-359, Reissue Revised
5 Statutes of Nebraska, is repealed.